

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	11-cr-989 (JSR)
-v-	:	
	:	<u>ORDER</u>
WALTER GARCIA,	:	
	:	
Defendant.	:	
	:	
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JED S. RAKOFF, U.S.D.J.:

Walter Garcia, having already received a substantial reduction in his sentence, seeks for a third time a further sentence reduction under 18 U.S.C. § 3582(c)(1)(A). See ECF No. 99. Garcia first moved to reduce his sentence in 2014, ECF No. 71, which the Court denied on October 27, 2015, ECF No. 81. In April of 2020, Garcia requested that a lawyer be appointed to assist him with filing a second motion to reduce his sentence, ECF No. 83, and the Court, sensing that Garcia's situation had changed in the intervening six years, appointed counsel to do so, ECF No. 84. After briefing and oral argument on the motion, on December 8, 2020, the Court granted Garcia's motion for a reduction in sentence, reducing Garcia's sentence from 280 to 240 months' imprisonment. See ECF No. 91.

A little more than a year later, however, in 2022, Garcia moved for a second sentence reduction under 18 U.S.C. § 3582(c)(1)(A). ECF No. 93. This Court denied the motion on March

8, 2022, because Garcia raised no new information or additional arguments to warrant a further reduction from the December 8, 2020 reduction. See ECF No. 94. Garcia appealed that denial, but the Second Circuit affirmed, issuing its mandate on June 9, 2023. ECF No. 96. On July 28, 2023, Garcia sent the Court a letter again moving for a sentence reduction. See ECF No. 97. The Court denied the motion, which failed to raise any arguments that changed the Court's analysis as set out in its December 8, 2020 order or March 8, 2022 order. See ECF No. 98.

In his instant motion, Garcia once more seeks a reduction in sentence under 18 U.S.C. § 3582(c)(1)(A). Although his arguments are more developed than in his July 2023 motion, they ultimately do not persuade the Court that an extraordinary and compelling reason warrants an additional reduction. Garcia states that his health is deteriorating because of his advanced age of 73. But he provides no explanation or details of how that is so, making it difficult for the Court to evaluate the claim, either alone or in combination with Garcia's other arguments. Garcia also cites his remorse for his crimes, his participation in rehabilitation programs, his attainment of a GED, and his "positive outlook and attitude." ECF No. 99, at 3. The Court commends Garcia for those accomplishments and encourages him to continue making such strides. However, the Court does not believe that they rise to the

level of "extraordinary and compelling." 18 U.S.C. § 3582(c)(1)(A)(i).

Moreover, even if such reasons were extraordinary and compelling, an independent consideration of the factors in 18 U.S.C. § 3553(a) would not justify a sentence reduction. See United States v. Keitt, 21 F.4th 67, 73 (2d Cir. 2021). The Court carefully weighed such factors in a written Order when, in 2020, the Court reduced Garcia's sentence to 240 months of imprisonment. See ECF No. 91. In that Order, which the Court hereby incorporates by reference, the Court explained that the circumstances of Garcia's crimes -- which included kidnapping, conspiracy to commit kidnapping, and conspiracy to distribute cocaine -- created a risk of serious violence from which the public deserves protection. Id. at 6. The Court found, after balancing each of the Section 3553(a) factors, that any sentence below 240 months of imprisonment "would be inconsistent with the severity of [Garcia's] crimes." Id. at 9. The Court sees no reason to depart from that conclusion. Accordingly, Garcia's motion for a further sentence reduction is denied. The Clerk is respectfully directed to close document number 99 on the docket of this case.

SO ORDERED.

Dated: New York, NY
December 4, 2023


JED E. RAKOFF, U.S.D.J.